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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,416	04/07/2004	Sean Christopher Endler	81488 7114	7822
37123 7590 04/05/2010 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
BASOM, BLAINE T				
ART UNIT		PAPER NUMBER		
2173				
MAIL DATE		DELIVERY MODE		
04/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/820,416

Applicant(s)

ENDLER ET AL.

Examiner

Blaine Basom

Art Unit

2173

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kieu Vu/
Supervisory Patent Examiner, Art Unit 2173

Continuation of 11, does NOT place the application in condition for allowance because: The Examiner respectfully finds the Applicants' arguments unpersuasive. With regard to the 35 U.S.C. § 112, second paragraph, rejection presented in the previous Office Action to claim 11, the Applicants argue that, by describing a "spherical display 250," a "playback ring 530," and a "control knob 525," the Applicants' specification clearly provides sufficient description linking the limitations of claim 11 (i.e. "means for displaying..." "means for simultaneously displaying..." and "means for scrolling...") to sufficient structure which performs the functions. The Examiner, however, respectfully disagrees. In addition to the spherical display, playback ring, and control knob, the specification also describes other items which could constitute the "means for displaying..." etc. recited in claim 1. For example, the specification also describes a "rendering module 310" that "produces signals that present content to a viewer" (Published Application No. 2005/001920, paragraph 0031), and which therefore also appears to be a "means for displaying..." like claimed. The Examiner thus respectfully maintains that the specification fails to clearly link or associate the limitations of claim 11 reciting "means for displaying..." "means for simultaneously displaying..." and "means for scrolling..." to the claimed functions such that one of ordinary skill in the art would recognize what structure, material or acts perform the claimed function.

With respect to the 35 U.S.C. § 103 rejection presented in the previous Office Action to claim 1, the Applicants argue that the Minakushi and Fitzmaurice combination cited in the final Office Action fails to describe or suggest "simultaneously displaying a second content on an outside surface of a physical spherical display surface of the display" as is claimed. The Applicants submit that Fitzmaurice's disclosure that "widgets are placed on the shell or outer edge of a volumetric display" and "surface voxels that might be used for part of a 2D widget displayed on the outside surface of the display inside the enclosure" is different than Applicants' recited claim of "displaying a second content on an outside surface of a physical spherical display surface of the display, wherein the spherical display surface is convex." The Examiner, however, respectfully disagrees. The Examiner notes that specification of the instant application does not explicitly disclose "displaying a second content on an outside surface of a physical spherical display surface," and in fact discloses "simultaneously display[ing] a second content on a spherical display surface within the spherical display" (Abstract). Just as the specification though would nevertheless support a teaching of "simultaneously displaying a second content on an outside surface of a physical spherical display surface," so to would Fitzmaurice's disclosure that "[i]t is an aspect of the present invention to place the widgets on an outside surface of a volumetric display inside a protective enclosure" (paragraph 0012). The volumetric display described by Fitzmaurice can be considered a physical spherical display. Accordingly, the Examiner respectfully maintains that Fitzmaurice teaches simultaneously displaying a second content on an outside surface of a physical spherical display surface of the display, wherein the spherical display surface is convex," as is claimed.

The Applicants arguments filed on March 12, 2010 have thus been fully considered, but are not persuasive.